IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24184 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AKTARLALI KASAMALI SAIYAD - Petitioner(s)

Versus

DEGHAM NAGARPALIKA & 1 - Respondent(s)

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Appearance :

MR NIRAL R MEHTA for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.
GOVERNMENT PLEADER for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/02/2006

ORAL JUDGMENT

1.The learned advocate for the petitioner seeks permission to delete respondent no.1. Permission is granted.

2.Rule. Learned AGP Ms. Falguni Patel waives service of

notice of rule on behalf of surviving respondent. At the request of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

3. The case of the petitioner is that the petitioner was granted a certain small piece of land for putting up a small temporary cabin for carrying on his business of watch repairing for which Government has also granted Sanad. Order to this effect has been produced at Annexure-D. However, subsequently, Dehgam Nagarpalika requested the petitioner to shift his cabin on the northern side of shop no.36. Upon the oral request, the petitioner shifted his shop. Subsequently, Nagarpalika removed the shop of the petitioner saying that his possession is illegal. At that stage, the petitioner approached this Court. Initially the prayer was made to permit the petitioner to continue the business at the existing place of the cabin or to permit the petitioner to put up a cabin as per Sanad. During the interregnum stage, the cabin was removed. The learned advocate for the petitioner does not press further for relief to continue the business of the petitioner where the cabin was actually placed. He submitted that as per the Sanad

granted by the Government,the petitioner has rightly put up the cabin and to continue to do his business.

4.Though sufficiently long time has been granted to respondent, no denial to the above submissions have been made. It would appear that though the petitioner was granted Sanad by the Government which would have authorised him to put his cabin at the place so assigned to him, at the request of Nagarpalika, the petitioner shifted the cabin. From the place where the cabin was shifted, Nagarpalika removed the cabin of the petitioner. This however, does not mean that the petitioner cannot put up his cabin as per the order passed by the Government pursuant to which Sanad has also been given to the petitioner. Accordingly, it is directed that the petitioner will be permitted to put his cabin, as per rules, on the land so allotted to him by the Government.

5.With these directions,the petition is disposed of. Rule is made absolute with no order as to costs.

Direct service is permitted.

(Akil Kureshi,J.)

(raghu)